

REMARKS

By this amendment, Claims 45 and 46 have been amended and no claims have been added or cancelled. Hence, Claims 1-21, 23-43, and 45-48 are pending in the application. All objections/rejections raised in the Office Action are addressed below.

FILED IDS STATEMENTS HAVE NOT BEEN ACKNOWLEDGED

Applicants have filed fifteen (15) Information Disclosure Statements (individually referred to as an "IDS") with the accompanying PTO-1449 forms that have not been acknowledged by the Patent Office. In particular, the Applicants have filed an unacknowledged IDS on (1) September 17, 2003, (2) June 4, 2004, (3) August 16, 2004, (4) October 25, 2004, (5) November 9, 2004, (6) November 23, 2004, (7) February 3, 2005, (8) May 12, 2005, (9) June 3, 2005, (10) June 22, 2005, (11) August 9, 2005, (12) November 15, 2005, (13) January 24, 2006, (14) May 31, 2006, and (15) June 8, 2006. For the convenience of the Examiner, a copy of each of the filed unacknowledged PTO-1449 forms, as well as a copy of the return postcards showing the dates in to the Office accompanies this response.

Applicants respectfully request an initialed form PTO-1449 that acknowledges receipt and consideration of each of the unacknowledged IDSs.

APPLICANTS FILE A SUPPLEMENTAL DECLARATION

The Office Action indicated that the declaration was defective for incorrectly stating the claim of priority. Applicants note that there is no requirement for priority information to be listed on the declaration. Applicants file herein a supplemental declaration signed by each inventor. The priority information contained in the supplemental declaration correctly states the priority information for the application, which is also stated in the section, entitled "CLAIM OF PRIORITY," appearing at paragraph 1 of the Applicants' specification.

Consequently, it is respectfully submitted that the objections raised with respect to the declaration have been overcome.

CLAIMS 45 AND 46 CONFORM TO 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 45 and 46 were rejected under 35 U.S.C. § 112, second paragraph for allegedly being indefinite under the rationale that “application” was recited in several instances where “appliance” should be used. Applicants have amended Claims 45 and 46 to correct those instances where “appliance” should be recited instead of “application.” Consequently, it is respectfully submitted that Claims 45 and 46 conform to 35 U.S.C. § 112, second paragraph.

CLAIMS 45 AND 46 ARE PATENTABLE OVER THE CITED ART

Claims 45 and 46 were rejected under 35 U.S.C. § 102(a) as allegedly being unpatentable over U.S. Patent Number 5,933,647 issued to Aronberg et al. (“*Aronberg*”). Applicants respectfully traverse, as each of Claims 45 and 46 recite at least one element that is not disclosed, taught, or suggested by *Aronberg*.

Claim 45 recites:

“receiving, at an appliance, a document that includes textual elements that specify (a) steps for installing an application on the appliance, and (b) customized parameter values to use when installing the application on the appliance; and automatically translating the elements to commands, which are executed by the appliance to perform said steps to install the application on the appliance using the customized parameter values”

Each of the above-quoted elements is not disclosed, taught, or suggested by *Aronberg*.

The portion of *Aronberg* (Col. 2, lines 52-54 and Col. 5, lines 30-35) cited to show “receiving, at an appliance, a document that includes textual elements that specify (a) steps for installing an application on the appliance, and (b) customized parameter values to use when installing the application on the appliance” states, *in toto*:

The present invention is a system for distribution of a software [sic] in a customized configuration to a computer in network environment...As noted before, actions are instructions that will be executed by the agent based workstation, such as 103 or 104, when the agent determines it meets the conditions set by the administrator from the console and pulls down the application from the file server 102.

Thus, the argument of the Office Action appears to be based on the rationale that the document received at the appliance, as claimed, is analogous to the installation program, received at workstation 103 or 104, for installing an application thereon.

A document, as is commonly understood to those in the art, corresponds to a file that is not an executable file. While a document may contain data for use by applications, a document itself is not executable. Thus, an installation program cannot qualify as a document.

To make the distinction between a document and an installation program even clearer, Claim 45 has been amended to recite that the document “includes textual elements.” An installation program does not include any textual elements that specify (a) steps for installing an application on the appliance, and (b) customized parameter values to use when installing the application on the appliance. At best, an installation program may include machine-executable instructions, but machine-executable instructions are compiled into a machine-readable format, and are not analogous to textual elements. Consequently, it is respectfully submitted that this element is not disclosed, taught, or suggested by *Aronberg*.

Claim 45 also recites the element of “automatically translating the elements to commands, which are executed by the appliance to perform said steps to install the application on the appliance using the customized parameter values.” The portion of *Aronberg* cited to show this element (Col. 4, lines 35-38) states, *in toto*:

The workstation hardware is configured by software including an operating system, e.g., Windows 95 or NT, networking software, and either the console or agent software components.

The Office Action further explains that this element is shown by “installation commands to be performed translated at least from the network protocol used to get them to the target” (page 3). Thus, the argument of the Office Action appears to be based on the rationale that translating textual elements, included within the document, to commands that are executed by the appliance is shown by receiving an installation program at a workstation using a transport protocol.’

Importantly, receiving an installation program at a workstation using a transport protocol in *Aronberg* does not involve a translation step as claimed. The commands as claimed correspond to the installation program of *Aronberg*, as the commands are executed by the appliance to perform the steps of installing the application on the appliance. Thus, the rationale of the Office Action requires that both the document and the commands as claimed be analogous to the installation program. As a result, no translation step occurs within *Aronberg*.

Further, while an installation program may be received using a transport protocol, the purpose of a transport protocol is to receive information where it can be readily processed, i.e., without translation. Once the installation program is received at a workstation in *Aronberg*, the installation program does not need to be translated to another protocol to be processed, but instead, the installation program may be executed upon receipt by the workstation. Thus, there is nothing inherent in receiving an installation program using a transport protocol that suggests the installation program is translated. For example, the Office Action does not appear to identify anything that is either translated to the installation program or anything that is translated from the installation program. Consequently, it is respectfully submitted that this element is not disclosed, taught, or suggested by *Aronberg*.

As at least one element of Claim 45 is not disclosed, taught, or suggested by *Aronberg*, it is respectfully submitted that Claim 45 is patentable over the cited art and is in condition for allowance. As Claim 46 recites features similar to those discussed above with respect to Claim 45, it is respectfully submitted that Claim 46 is also patentable over the cited art and also is in condition for allowance.

CLAIMS 1-21 AND 23-43 ARE PATENTABLE OVER THE CITED ART

Claims 1-21 and 23-43 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Aronberg* in view of U.S. Patent Number 6,718,358 issued to Bigus et al. ("*Bigus*") in view of U.S. Patent Number 6,446,071 issued to Callaway et al. ("*Callaway*"). Applicants respectfully traverse, as each of Claims 1-21 and 23-43 recites

at least one element that is not disclosed, taught, or suggested by *Aronberg*, *Bigus*, or *Callaway*, either individually or in combination.

To illustrate, Claim 1 recites:

A method for automatically installing an application on a device on a network, the method comprising the steps of:
sending, from the device to a server, a request that (a) requests a database application from the server, and (b) includes resource information that indicates resources that are available on the device;
downloading, from the server, an initial customized value for a configuration parameter, wherein the initial customized value was determined by the server based on the resource information;
downloading the database application to the device; and
installing the database application on the device with the initial customized value for the configuration parameter (emphasis added).

At least the above-bolded elements are not disclosed, taught, or suggested, either individually or in combination, by the cited art.

No portion of *Aronberg* is cited to show the above-bolded features of Claim 1 in their entirety. Indeed, no portion of any cited reference is cited to show the above-bolded features of Claim 1.

Instead, the Office Action states (a) *Bigus* “demonstrated that it was known at the time of the invention to install database applications” and “to gather resource information from target devices,” (b) *Callaway* “demonstrated that it was known at the time of the invention to seek centralization of data and software,” and (c) because of the teaching of *Bigus* and *Callaway*, the above features are obvious in view of *Aronberg*.

The Office Action has not cited a single reference to show any of the above-bolded elements. Consequently, it is submitted that the Office concedes the *Aronberg*, *Bigus*, and *Callaway*, individually, do not disclose, teach, or suggest each of the above-bolded elements. If *Aronberg*, *Bigus*, and *Callaway* each individually fail to disclose each of the above-bolded elements, it is respectfully submitted that the combination of *Aronberg*, *Bigus*, and *Callaway* cannot disclose, teach, or suggest each of the above-bolded elements.

Moreover, while *Aronberg* is directed towards installing an application, neither *Bigus* nor *Callaway* is directed towards installing an application. Instead, *Bigus* is directed towards configuring an application, while *Callaway* is directed towards managing access to an application. Thus, there is nothing in the teaching of *Bigus* and *Callaway* that would suggest to someone of normal skill in the art to modify the teachings of *Aronberg* in any way, let alone in the manner alleged by the Office Action.

Instead of identifying portions in *Bigus* or *Callaway* that provide an actual teaching or motivation to modify the approach of *Aronberg*, the Office Action merely identifies portions of *Bigus* and *Callaway* that stand for some general concept, and then concludes, without support or justification, that based on the general concept, that the claimed elements are obvious. However, given the actual and acknowledged deficiencies of *Aronberg*, *Bigus*, and *Callaway*, combining *Aronberg*, *Bigus*, and *Callaway* would not result in the above-bolded elements.

The Applicants readily concede that at the time of their invention, those in the art (a) knew how to install database applications using prior approaches, (b) knew how to gather resource information, using prior approaches, from target devices, and (c) understood certain benefits of centralizing data and software. However, nothing in this admission makes it any more or less likely that the claimed features of Claim 1 were disclosed, taught, or suggested in the prior art, since the subject matter of these admissions do not in any way suggest modifying the above of *Aronberg* to result in the above-bolded elements.

For example, knowledge of how to install a database application using prior approaches would not motivate one to perform the above-bolded elements. Indeed, such knowledge would tend to teach away from the above-bolded elements, since the above-bolded elements are not performed by any prior approach, e.g., no reference has been cited to show any of the above-bolded elements.

As another example, knowledge of how to gather resource information from target devices using prior approaches would not motivate one to perform the above-bolded elements. *Bigus*, the reference that discusses this concept, is directed towards configuring an application. While those in the art may have gathered information in configuring an

application, nothing in *Bigus* suggests that those in the art sent, from a device to a server, a request that (a) requests a database application from the server, and (b) includes resource information that indicates resources that are available on the device for purposes of installing an application.

As another example, understanding certain benefits of centralizing data and software would not motivate one to perform the above-bolded elements. *Callaway*, the reference that discusses this concept, is directed towards managing access to an application. While those in the art may have centralized data to facilitate managing access to an application, nothing in *Callaway* suggests that those in the art sent, from a device to a server, a request that (a) requests a database application from the server, and (b) includes resource information that indicates resources that are available on the device for purposes of installing an application. Indeed, sending resource information from the device of which the resource information reflects results in the creation of a duplicate copy of the resource information, which is contrary to the proposition to which *Callaway* is cited to suggest, namely the centralization of data. Thus, the proposed combination of *Callaway* with *Aronberg* would **destroy** *Callaway*.

Consequently, it is respectfully submitted that each of the above-bolded elements of Claim 1 are not shown, taught, or suggested by the cited art. Since at least one element of Claim 1 is not shown, taught, or suggested by the cited art, it is respectfully submitted that Claim 1 is patentable over the cited art and is in condition for allowance.

Claims 21 features the element of “receiving, at a server from the device, a request that (a) requests said application from a server, and (b) includes resource information that indicates resources that are available on the device.” For reasons similar to those discussed above with respect to Claim 1, it is respectfully submitted that this element is not disclosed, taught, or suggest, either individually or in combination, by the cited art. Consequently, it is respectfully submitted that Claim 21 is patentable over the cited art and is in condition for allowance.

Claims 2-20 and 23-43 are dependent claims, each of which depends (directly or indirectly) on Claim 1 or Claim 21. Each of Claims 2-20 and 23-43 is therefore allowable for the reasons given above for the claim on which it depends. In addition,

each of Claims 2-20 and 23-43 introduces one or more additional limitations that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those limitations is not included at this time, although the Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any fee shortages or credit any overages Deposit Account No. 50-1302.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop AF**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on December 20, 2006

by


Susan Jensen